IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CHHATTISGARH)

W.P.NO. 4 /200

BETWEEN

Mahila Mandal, Seth Kirodimal Bal Mandir, Sattigudi Chowk, Raigarh, through its President Smt. Vidula TamaskarWife of Sanjay Kumar Tamaskar, aged 42 years, Resident of Raigarh (CXG.).

.....PETITIONER

A N D

1. The Labour Officer/The Controlling Authority Under the Payment of Graduity Act, 1972, Raigarh.
2. Smt. Kamal Dave, Retired Head Mistress of Bal Mandir, C/o V.K.Dave, B-1-58 Lokmaniya Sahakari Grih Nirman Samiti, Rohatipuram, Raipurh, University Branch RAIPUR (C.G.).
3. State of Chhattisgarh through, The Secretary, Department of School Education, Govt. of Chhattisgarh, D.K.S.Bldg., ,Mantralaya, Raipur.
4. Tehsildar, Raigarh, District Raigarh (C.G.)

.....RESPONDENTS

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA.

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Clerk to A.G. Bilaspur

(59)

HIGH COURT OF CHHATTISGARH AT BILASPUR
W. P. No. 4 of 2001

Petitioner	Mahila Mandal, Seth Kirodimal Bal Mandir
	Versus
Respondents	The Labour Officer/The Controlling Authority & others

SB: Hon'ble Mr. Justice **Satish K. Agnihotri, J**

Shri B.D. Guru, counsel for the petitioner.

Shri P.R. Patankar, counsel for the respondent No. 2.

Shri A.S. Kachhawaha, Government Advocate for the respondents No. 3 and 4/State.

ORDER

(Passed on 11th Day of December, 2006)

The following order of the Court is passed by **Satish K. Agnihotri, J.**

1. The admitted facts of the present case is that the respondent No. 2 was posted as teacher on 19.6.1956 in Mahila Mandal, Seth Kirodimal Bal Mandir and retired on attaining the age of superannuation on 31.5.1996.

2. The respondent No. 2, being aggrieved, filed an appeal before the Controlling Authority under the Payment and Gratuity Act, 1972, Raigarh. The Controlling Authority, after hearing both the parties, by order dated 30.3.2000 (Annexure P/1) came to the conclusion that the respondent No. 2 was entitled to grant of

gratuity under the provisions of the Payment and Gratuity Act, 1972. The Controlling Authority further quantified the amount to the tune of Rs. 1,37,239.00 with interest @ 10%.

3. The petitioner-Society, being aggrieved, filed this petition under Article 226/227 of the Constitution of India challenging the validity of the impugned order dated 30.3.2000 (Annexure P/1) passed by the Controlling Authority.

4. The case of the petitioner is that the teacher is not an employee under the provisions of the Payment and Gratuity Act, 1972.

5. Learned counsel appearing for the respondent No. 2 supports the impugned order dated 30.3.2000 (Annexure P/1) passed by the Controlling Authority, Raigarh.

6. In the present case, the question of law asto whether a teacher is entitled to payment of gratuity under the provisions of the Act, 1972 is involved and the identical question of law was considered by the Supreme Court in **Ahmedabad Pvt. Primary Teachers' Assn. Vs. Administrative Officer and others**[1] and has held as under:-

> "24. The contention advanced that teachers should be treated as included in the expression "unskilled" or "skilled" cannot, therefore, be accepted. The teachers might have been imparted training for teaching or there may be cases where teachers who are employed in primary schools are untrained. A trained teacher is not described in the industrial field or service jurisprudence as a "skilled

(61)

employee". Such adjective generally is used for an employee doing manual or technical work. Similarly, the words "semi-skilled" and "unskilled" are not understood in educational establishments as describing nature of job of untrained teachers. We do not attach much importance to the arguments advanced on the question as to whether "skilled", "semi-skilled" and "unskilled" qualify the words "manual", "supervisory", "technical" or "clerical" or the above words qualify the word "work". Even if all the words are read disjunctively or in any other manner, trained or untrained teachers do not plainly answer any of the descriptions of the nature of various employments given in the definition clause. Trained or untrained teachers are not "skilled", "semi-skilled", "unskilled", "manual", "supervisory", "technical" or "clerical" employees. They are also not employed in "managerial" or "administrative" capacity. Occasionally, even if they do some administrative work as part of their duty with teaching, since their main job is imparting education, they cannot be held employed in "managerial" or "administrative" capacity. The teachers are clearly not intended to be covered by the definition of "employee".

However, the Supreme Court in para 26 has made it clear that the States are free to frame separate statutes, rules and regulations granting the benefit of gratuity to the teachers in educational institutions which are more or less beneficial than the gratuity benefits provided under the Act, 1972.

7. This Court in the case of **Jawahar Singh Vs. Secretary, Chhattisgarh Sikshan Samiti, Bilaspur & another**

(W.P. No. 2464 of 1997) has considered the issue involved in the present petition and held that a teacher is not entitled to grant of gratuity under the provisions of the Payment and Gratuity Act, 1972. This case is squarely covered by decision of this Court in the case of Jawahar Singh Vs. Secretary, Chhattisgarh Sikshan Samiti, Bilaspur & another (Supra).

8. For the foregoing reasons, the impugned order dated 30.3.2000 (Annexure P/1) passed by the Controlling Authority, Raigarh is set aside and quashed.

9. As a result, this writ petition is allowed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Bablu

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1 {(2004) 1 SCC 755}